

Notice of Allowability

Application No.

09/822,379

Examiner

Karen A. Canella

Applicant(s)

LOW ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination, filed August 2, 2005.
2. ☒ The allowed claim(s) is/are 1, 8-10, 13, 18-38, 41-47, 50, 51, 53, 54, renumbered as 1-36 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date August 2, 2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


KARENA. CANELLA PH.D
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Rebecca Ball on September 22, 2005.

The application has been amended as follows:

Claims 4, 5, 14, 15 and 47 have been canceled.

The following is an examiner's statement of reasons for allowance: The instant method claims are reliant upon the identity of the genus of folate-binding ligands. The specification provides adequate written description of the claimed invention because folate binding ligands are well known in the art, for example,

US 5,140,104, US 6,335,434, US 5,552,545, US 2,816,110, and,

Journal of Medicinal Chemistry:

Roberts et al, 1973, Vol. 16, pp. 697-699,
Roberts et al, 1972, Vol. 15, pp. 1310-1312
Roberts et al, 1971, Vol. 14, pp. 125-130,
Weinstock et al, 1970, Vol. 13, pp. 995-997,
Bock et al, 1974, Vol. 17, pp. 23-28,
Roberts et al, 1974, Vol. 17, pp. 219-222,
Lee et al, 1974, Vol. 17, pp. 326-330,
Kim et al, 1975, Vol. 18, pp. 776-780,
Nair et al, 1976, Vol. 19, pp. 825-829,
Plante et al, 1976, Vol. 19, pp. 1295-1299,
Hynes et al, 1977, Vol. 20, pp. 588-591,
Oatis et al, 1977, Vol 20, pp. 1393-1396,
Nair et al, 1978, Vol. 21, pp. 673-677,
Nair et al, 1979, Vol. 22, pp. 850-858,
Nair et al, 1980, Vol. 23, pp. 59-65,
Nair et al, 1981, Vol. 24, pp. 1068-1073,
Temple, 1982, Vol. 25, pp. 161-166,
Nair et al, 1983, Vol. 26, pp. 135-140,
Nair et al, 1983, Vol. 26, pp. 605-607,
Nair et al, 1983, Vol. 26, pp. 1164-1168.

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Thus, claims drawn to folate receptor-binding ligands, folate analogs and derivatives thereof, rely upon what is well known in the art to satisfy the written description of the genus.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 11 am to 10 pm, except Wed, Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571)272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen A. Canella, Ph.D.

9/22/2005


KARENA. CANELLA PH.D
PRIMARY EXAMINER